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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,871	08/09/2000	Patrice Debregeas	065691/0196	3200

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EXAMINER

TRAN, SUSAN T

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 11/01/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/582,871

Applicant(s)
Debregeas et al.

Examiner
Susan T. Tran

Art Unit
1615



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 9, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 24, and 25 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24, and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: |

Art Unit: 1615

DETAILED ACTION

Receipt is acknowledged of applicant's Request for Continued Examination filed 04/15/02, Request for Extension of Time filed 04/15/02, and Amendment C filed 04/15/02.

Claim Rejections - 35 U.S.C. § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant's claim 1 recites "said apertures that form a path for a gas flow between the inside and the outside of a said drum", while it appears that the air supplied is by the conduit 36, which passes through the apertures between the sections 22 in order to pass from the outside towards the inside of the drum (specification at page 8, lines 22-29). It is suggested to amend the claim to include the conduit 36.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1615

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in the use of the phrase "said apertures that form a path for a gas flow between the inside and the outside of a said drum" in lines 4-5. It is unclear as to what the "said apertures" is referring to. Is it referring to the peripheral apertures, a member for feeding said from, a member for supplying gas, or maybe the mutually parallel sections? Further clarification is requested.

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fusejima et al. EP 648529A1.

Fusejima teaches a pharmaceutical granular material coating apparatus comprising rotary drum having cylindrical body portion (2) is formed by partition plates (52) and peripheral surfaces of the frame members (51a and 51b), and nozzle (22) for spraying coating (columns 6 and 12; Figs. 1-3). The coating apparatus further comprising a gas supply duct (31), (column 7,

Art Unit: 1615

lines 8 through column 8, lines 30). The device is used to produce tablets or granules for pharmaceuticals and food products (column 1, lines 1-5).

Fusejima is silent as to the teaching of the parallel sections (22) of the claimed invention. However, Fusejima does teach and suggest the use of partition plates (52) having peripheral surfaces of the frame members (51a and 51b). Thus, it would have been prima facie obvious for one of the ordinary skill in this art to, by routine experimentation modifying Fusejima's peripheral surfaces of the frame members (51a and 51b) to obtain the claimed invention, because the reference teaches the advantageous results of gas supply passes through the inner and outer peripheral surfaces to improve the accumulation of coating material onto the granules.

4. Claims 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fusejima et al. (529), in view of Fusejima et al. US 5,939,097 (097).

Fusejima (529) is relied upon for the reasons stated above. The reference is silent as to the teaching of the packaging of the granule.

Fusejima (097) teaches a food-like medicine composition comprising granule or particulate that can be incorporated into a gelatin capsule (columns 2-3). Thus, it would have been prima facie obvious for one of the ordinary skill in the art to incorporate Fusejima (529)'s granule into the gelatine capsule in view of the teaching of Fusejima (097). The reason for this modification is to obtain a satisfactory product useful in pharmaceutical art.

Art Unit: 1615

Response to Arguments

5. Applicant's arguments filed 08/09/02 have been fully considered but they are not persuasive. The examiner maintains the original 103(a) rejections.

Applicant argues that Fusejima ('529) a member to serve as an entry or exit for gas between the inside and the outside of the drum. In response to applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., member to serve as an *entry or exit* for gas between the inside and the outside of the drum) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The limitation being claimed is an aperture that forms a path for a gas flow between the inside and the outside of the drum. Fusejima teaches partition walls for defining a flow path of the flow of the gas from the gas supply duct to the exhaust duct through an accumulated layer of the granular material in the rotary drum. Separation members are provided at a first position as a guide for flowing the drying gas from the inside to the outside of the rotary drum through the accumulated layer, or at a second position as a guide for flowing the drying air from the outside to the inside of the rotary drum through the accumulated layer (column 4, lines 1-14). Applicant's transitional phrase "comprising of" does not exclude the annular duct, the gas supply duct, and/or the separation members besides the partition walls. The annular duct, the gas supply duct, and the separation members along with the partition walls providing guide for flowing the drying gas from the

Art Unit: 1615

inside to the outside of the rotary drum through the accumulated layer. Thus, the skilled artisan would have been motivated to modify partition plates to provide a path for flowing gas between inside and outside of the cylindrical portion. Applicant fails to provide any unusual and/or unexpected results over the claimed sections has a width which decreases from the inside towards the outside of the drum to allow easy and simple cleaning. Applicant's attention is called to column 15, lines 7-37, wherein free from contamination, easy cleaning have been obtained. It is the position of the examiner that no criticality is seen in the claimed apertures that form a path for a gas flow between the inside and the outside of the drum, since Fusejima recognizes the properties desired by the applicant, *e.g.*, granular material coating apparatus having drying efficiency, flow of gas can be easily changed, easy installation, free from contamination, easy cleaning, and therefore, high quality coating can be achieved, thus obtain a satisfactory coating apparatus for tablets, granules and the like useful for pharmaceuticals and food products (column 15).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 1615

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Tran whose telephone number is (703) 306-5816. The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-359.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
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